

**EXHIBIT 3**



**UNITED STATES DISTRICT COURT**

**FOR THE SOUTHERN DISTRICT OF NEW YORK**

**IN RE: TERRORIST ATTACKS )**

**03-MDL-1570 (GBD) (SN)**

**ON SEPTEMBER 11, 2001 )**

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**EXPERT REPORT OF JONATHAN M. WINER**

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publishing or disseminating the examples below may not characterize these statements as “support for al Qaeda,” the thinking in them is fully consistent with al Qaeda’s ideology:

- 9.4.4.7.1. “Be dissociated from the infidels, hate them for their religion, leave them, never rely on them for support, do not admire them, and always oppose them in every way according to Islamic law.” (Printed by Saudi Government Ministry of Cultural Affairs, prior to 2004)<sup>89</sup>
- 9.4.4.7.2. “To be true Muslims, we must prepare and be ready for jihad in Allah’s way. It is the duty of the citizen and the government. The military education is glued to faith and its meaning, and the duty to follow it.” (Printed by Saudi Government Ministry of Education, prior to Dec 2004)<sup>90</sup>
- 9.4.4.7.3. “Jihad is the key to Muslims’ success and felicity, especially when their sacred shrines are under the Zionist occupation in Palestine, when millions of Muslims are suffering suppression, oppression, injustices, torture and even facing death and extermination campaigns in Burma, Philippines, Patani, USSR, Cambodia, Vietnam, Cyprus, Afghanistan, etc. This responsibility becomes even more binding and pressing when we consider the malicious campaigns being waged against Islam and Muslims by Zionism, Communism, Free Masonry, Qadianism, Bahaism and Christian Missionaries.” (Speech, 1980, head of Muslim World League)<sup>91</sup>

9.5. *The intent to avoid direct conflict with the West through duplicity, or engaging in a double game.* Over my decades of work on Middle East issues, I have found it common for people and institutions there to send different messages to different audiences as a means of seeking to avoid direct confrontation with powerful western countries, especially the United States. During the 1980’s, the U.S. and the Islamic world were united in wanting to see the Soviet Union out of Afghanistan. This unity for that limited purpose broke apart in other conflicts between Muslims and non-Muslims in other areas, such as Israel/Palestine, or

<sup>89</sup> “Saudi Publications on Hate Ideology Invade American Mosques,” Freedom House, December 2004, [https://freedomhouse.org/sites/default/files/inline\\_images/Saudi%20Publications%20on%20Hate%20Ideology%20Invade%20American%20Mosques.pdf](https://freedomhouse.org/sites/default/files/inline_images/Saudi%20Publications%20on%20Hate%20Ideology%20Invade%20American%20Mosques.pdf)

<sup>90</sup> Freedom House, id.

<sup>91</sup> Muhammad Ali Harakan, “Duty of Implementing the Resolutions,” Journal of the Muslim World League, No. 6 (1980), pp. 48–49, cited in [https://www.belfercenter.org/sites/default/files/legacy/files/The\\_Rise\\_of\\_Muslim\\_Foreign\\_Fighters.pdf](https://www.belfercenter.org/sites/default/files/legacy/files/The_Rise_of_Muslim_Foreign_Fighters.pdf) .

Bosnia, and diverged in the Afghanistan/Pakistan region as soon as the Soviets departed. In any case, the use of a charity to facilitate militant activity would have been seen from the outset as problematic by the west, as well as in conflict with universal international standards that go back to the founding of the Red Cross, and which were formally adopted by the Red Cross, Red Crescent, and other humanitarian groups in 1979.<sup>92</sup> The seven fundamental standards include the requirement of neutrality – that a relief organization such as the Red Cross and Red Crescent may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature. Thus, any Islamic charity providing support for military efforts would need to keep that support hidden because such support would be in conflict with the universal international norms considered essential to the work of all charities.<sup>93</sup>

9.6. *Avoiding legal liability.* A charity acknowledging that it helped fund activities that killed people would have the risk of having its leadership criminally indicted and having the organization itself sanctioned or found liable for injuring the victims. No charity would ever want to put itself in the position of acknowledging that it had intentionally funded such activities, even in cases, such as those involving the Islamic charities operating in war zones where they were directly assisting Islamic fighters with logistics and documentation, as well as facilitating the provision of weapons to those fighters.

9.6.1. Most simply, decisions by a charity and its leadership not to document what it was doing, even when it was legally required to do so, were *intended* to provide deniability and could be used to avoid the risk of legal liability for having provided funds to terrorists. To use the popular catchphrase used in the world of computer software design, the charities' failure to document support for terrorism was *not a bug, but a feature* of how they operated. The charities operated with minimal record-keeping regarding their activities in the field for many reasons. But one important one was that their heads could rely on the lack of records to "prove" they had done nothing wrong, and thereby try to avoid having anyone hold them legally or otherwise accountable.

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<sup>92</sup> See "Proclamation of the Fundamental Principles of the Red Cross," Commentary, at website of International Committee of the Red Cross, stating that "The Fundamental Principles are the result of a century of experience. Proclaimed in Vienna in 1965, they bond together the National Red Cross and Red Crescent Societies, the International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies, and guarantee the continuity of the Movement and its humanitarian work." <https://www.icrc.org/en/doc/resources/documents/misc/fundamental-principles-commentary-010179.htm>.

<sup>93</sup> The principle of neutrality is of fundamental importance because the Geneva Accords give relief workers absolute protection on the battlefield. If any of them are helping one side to a conflict, the entire principle of protection is put at risk, endangering all of the other relief workers. In practice, the Islamic charities violated this bedrock principle in Afghanistan, Bosnia, Chechnya, Indonesia, the Philippines, Sudan, and a number of other places in the days leading up to 9/11. See additional commentary on the principle of neutrality on the website of the International Committee of the Red Cross at <https://www.icrc.org/en/doc/resources/documents/misc/fundamental-principles-commentary-010179.htm>